

pay in proportion to the benefit he in fact took under the transaction; and that the remainderman, or reversioner, was made to pay with reference to his proportion of the benefit; which estimate and adjustment must be made upon facts, not upon mere speculation. *White v. White*, 9 Ves. 554; *Allan v. Backhouse*, 2 Ves. & Bea. 78.

In applying this rule for estimating the value of an estate for life, or in order to make an apportionment between the several owners of a real estate, it appears, that the English Courts of justice have, latterly, in almost all cases, sought assistance from the tables formed by mathematicians of the expectation of life, without receiving them, except, perhaps, in the case of the distribution of the assets of a deceased person's estate; *Ex parte Thistlewood*, 19 Ves. 250; as in any respect conclusive. *Heathcote v. Paignon*, 2 Bro. C. C. 167; *Griffith v. Spratley*, 1 Cox, 389; *Erans v. Chesshire*, *Belt's Supp. to Ves.* 306; *Gowland v. De Faria*, 17 Ves. 25; *Ex parte Thistlewood*, 19 Ves. 236; *Ex parte Whitehead*, 1 Meriv. 127; *Daris v. Marlborough*, 2 Sican. 147; *Portmore v. Taylor*, 6 Cond. Chan. Rep. 104; *Newton v. Hunt*, 7 Cond. Chan. Rep. 518; *Wardle v. Carter*, 10 Cond. Chan. Rep. 163; *Ryle v. Brown*, 6 Exch. Rep. 265. Because, as a basis for all those tables a certain average rate of mortality being established or assumed, they are then the result of calculations upon mere age, taking all lives of the same age to be of equal value, considering none as bad, that are ordinarily good. But the constitutions of individuals differ essentially; the health of the same individual may have been materially affected by accident or climate; or he may have a latent disease which has in a greater, or less degree, affected his duration of life for many years. All such circumstances must be taken into consideration; and, therefore, no ordinary table of the expectation of life, although it may afford much useful information, can alone be taken as giving a correct general rule for estimating the value of the life of any particular individual. *Gwynne v. Heaton*, 1 Bro. C. C. 2; *Heathcote v. Paignon*, 2 Bro. C. C. 167; *Gibson v. Jeyes*, 6 Ves. 274; *Ex parte Thistlewood*, 19 Ves. 236.

In cases of pensions or annuities for life granted by government; in cases of a life interest in land, not chiefly valuable because of

242 * the houses erected upon it, where the title is unquestionable; and in cases of setting a value upon a life interest in land in proportion to the estate in remainder or reversion in the same land under the same title, no contingencies, affecting its value, need be considered other than those of the expectation of the life. But, in making an estimate of the value of other kinds of life interests, there are other circumstances to be attended to besides the uncertainty of the life during which they were to be held; the frailties of the securities by which they are to be sustained during that time must also be considered. For instance, what an annuity is worth depends, in a great degree, upon the